

MINUTES

CASE NUMBER: CR NO. 17-00109LEK
CASE NAME: USA vs. (01) MICHAEL PHILLIP PATRAKIS
ATTYS FOR PLA: Darren W.K. Ching
ATTYS FOR DEFT: (01) Keith S. Shigetomi
INTERPRETER:

JUDGE:	Leslie E. Kobayashi	REPORTER:	Debi Read
DATE:	10/25/2018	TIME:	2:45-3:40

COURT ACTION: EP: Sentencing to Counts 1 and 2 of the Indictment.

Defendant (01) Michael Phillip Patrakis present in custody. Darsie J.T. Ing-Dodson, U.S. Probation Officer, present.

Parties have had the opportunity to review and have reviewed the Presentence Report and had the opportunity to make any objections. Court places the PSR in the record under seal.

Defendant plead guilty to Counts 1 and 2 of the Indictment on 3/6/2018 and was adjudged guilty.

Court accepts plea agreement.

There are no **remaining** Objections to the Presentence Report and the recommended sentencing guidelines. Objections were received, and Amended PSRwar prepared.

Court adopts the factual findings of the Amended PSR.

Court findings made as to the applicable sentencing guidelines.

Court notes the aggravating and mitigating factors related to Defendant's Sentencing.

K.W. addresses the Court by telephone.

Recommendations by Counsel as to proposed sentence heard.

Allocution by Defendant.

Court's proposed sentence stated. No legal objections to the proposed sentence. Court imposes sentence.

SENTENCE:

Imprisonment: 292 Months as to each of Counts 1 and 2, to run concurrently.

Supervised Release: 20 Years as to each of Counts 1 and 2, to run concurrently.

Fine: None

Restitution: Not Applicable

Special Assessment: \$200.00 (\$100.00 as to each of Counts 1 and 2).

JVTA Assessment: \$10,000.00 (\$5,000.00 as to each of Counts 1 and 2).

Conditions of Supervised Release:

You must abide by the mandatory and standard conditions of supervision, including the following conditions:

You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of commencement of supervision and at least two drug tests thereafter but no more than eight valid drug tests per month during the term of supervision. (mandatory condition)

You must cooperate in the collection of DNA as directed by the probation officer. (mandatory condition)

You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. (mandatory condition)

You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of the time you are released, unless the probation officer instructs you to report to a different probation office or within a different time frame. (standard condition)

You must abide by the following special conditions:

1. You must participate in a substance abuse treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise your participation in the program (such as provider, location, modality, duration, and intensity).

2. As part of the substance abuse treatment regimen and monitoring, you must submit to substance abuse testing to determine if you have used a prohibited substance. You must

not attempt to obstruct or tamper with the testing methods.

3. You are prohibited from using marijuana, synthetic marijuana, any products containing tetrahydrocannabinol, or any other products derived from a marijuana plant, including for medicinal or business purposes, without the prior approval of the Court.

4. You must provide the probation officer access to any requested financial information and authorize the release of any financial information. The probation office may share financial information with the U.S. Attorney's Office.

5. You must participate in a mental health assessment, and any recommended treatment in a mental health program, and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise your participation in the program (such as provider, location, modality, duration and intensity).

6. You may change your residence only with the advance approval of the probation officer. You must appear in person at the state registration agency within 3 business days after the change of residence to report such change.

7. You must participate in a sex offense-specific assessment and any recommended treatment program, and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise your participation in the program (provider, location, modality, duration, intensity, etc.). Your legitimate invocation of the Fifth Amendment privilege against self-incrimination in response to a treatment provider's question shall not be considered a violation of this condition.

8. You must submit to periodic polygraph testing at the direction of the probation officer as a means to ensure that you are in compliance with the requirements of your supervision or treatment program. A maximum of six polygraph tests per year is allowed, unless otherwise ordered by the Court. Your supervision may not be revoked based solely upon the results of a polygraph test. Your legitimate invocation of the Fifth Amendment privilege against self-incrimination in response to a polygrapher's question shall not be considered a violation of this condition.

9. You must participate in visual response testing as part of the required participation in a sex offense-specific assessment and/or treatment.

10. You must not have direct contact with any child you know or reasonably should know to be under the age of 18, including your own children, without the permission of the probation officer. If you do have any direct contact with any child you know or reasonably should know to be under the age of 18, including your own children, without the permission of the probation officer, you must report this contact to the probation officer within 24 hours. Direct contact includes written communication, in-person communication, or physical contact. Direct contact does not include incidental contact during ordinary daily activities in public places.

11. You must not communicate, or otherwise interact, with MF1 or MF2, either directly

or through someone else, without first obtaining the permission of the probation officer.

12. You must not view or possess any “visual depiction” (as defined in 18 U.S.C. § 2256), including any photograph, film, video, picture, or computer or computergenerated image or picture, whether made or produced by electronic, mechanical, or other means, of “sexually explicit conduct” (as defined in 18 U.S.C. § 2256 - such as material intended to sexually stimulate or arouse). You must not frequent any place where such material is the primary product for sale or entertainment is available. The only exceptions to this condition are for treatment purposes or for the purpose of appeal or collateral challenges in the instant case, and with the prior approval of the probation officer.

13. You must not possess and/or use computers (as defined in 18 U.S.C. § 1030(e)(1)) or other electronic communications or data storage devices or media, without the prior approval of the probation officer.

14. You must not access the Internet except for reasons approved in advance by the probation officer.

15. You must not go to, or be at, a place for the primary purpose of observing or contacting children under the age of 18.

16. You must not go to, or be at, any place where you know children under the age of 18 are likely to be, including parks, schools, playgrounds, and childcare facilities.

17. You must submit your person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or storage devices or media, or office to a search conducted by a United States Probation Officer. Failure to submit to a search may be grounds for revocation of release. The probation officer may conduct a search under this condition only when reasonable suspicion exists that you have violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner. You must also submit to periodic unannounced examinations of your computer and computer accessories, as well as provide access to Internet service provider account records, as directed by the probation officer. You must warn other occupants that the premises may be subject to searches pursuant to this condition.

Judicial Recommendations:

Defendant to be placed at: an FCI that provides Residential Sex Offender Treatment and Substance Abuse Treatment. Defendant to be placed at: 1) Safford FCI or 2) Devens FMC.

Defendant to be enrolled in Educational and Vocational programs.

Defendant to be placed in RDAP - 500 Hour Residential Drug Abuse Program.

Govt’s Oral Motion to Dismiss Counts 3, 4 and 5 of the Indictment is Granted and terminated.

Govt's Request that the Preliminary Order of Forfeiture filed 9/6/2018 be attached to the Judgment is Granted.

Defendant advised of his right to appeal within 14 days of entry of judgment.

Defendant's Counsel Requests that the Defendant be allowed to retrieve certain personal item from the forfeited items, personal photographs, etc. Defense Counsel to work with AUSA on accomplishing that.

Defendant's Counsel's Oral Motion to Withdraw as Counsel is **provisionally Granted. Defendant's Counsel to file Notice of Appeal if needed.** Defendant's Counsel to also provide Defendant with Financial Affidavit, and have defendant sworn to Financial Affidavit, so that arrangements can be made to have CJA Appeal Counsel Appointed if needed.

Mittimus Forthwith. Defendant remanded to the custody of the US Marshal.

Submitted by: Warren N. Nakamura, Courtroom Manager